

## **SUBCHAPTER B. PROVISIONS FOR THE TUITION EQUALIZATION GRANT PROGRAM**

### **19 TAC §22.22, §22.29**

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to §22.22 and §22.29, concerning the Provisions for the Tuition Equalization Grant (TEG) Program. To provide institutions greater flexibility in administering their state financial aid funds, the Coordinating Board proposes modifying the TEG allocation methodology by eliminating reallocations and implementing a biennial approach to the annual allocation process. Changes to this section are made in accordance with Senate Bill 215, passed by the 83rd Texas Legislature, Regular Session, which called for the Coordinating Board to engage institutions of higher education in a negotiated rulemaking process as described by Subchapter 2008, Government Code. The intent of the amendments is to incorporate into existing rule the changes and provisions developed by the Negotiated Rule-Making Committee.

Specifically, §22.22 concerning definitions has been amended to add the definitions of the terms Encumbered Funds and Forecast.

Amendments to §22.29 add language that realigns wording within the subchapter. The word "Reallocation" has been stricken from the rule name and replaced with "Disbursement," and the term "Total TEG Need" has been replaced with its full definition in §22.29(b)(2).

Section 22.29(b)(2)(B) specifies the data source for one of the criteria to be used in calculating the allocation base for each institution. Section 22.29(b)(2)(F) is amended to align the language with the definition of religious ministry as defined in this Chapter 22, Subchapter B.

New §22.29(b)(9) adds language allowing for allocations to be calculated for both years of the biennium simultaneously (rather than annually) and will allow Board staff to forecast data used in allocating funds for the second year of the biennium.

Section 22.29(c) concerning reallocations has been stricken and replaced with guidelines for the disbursement of funds to institutions.

Section 22.29(d) has been amended and adds guidelines for how the Board will handle the reduction of funds after the start of a fiscal year or prior to the start of a fiscal year.

Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Student Financial Aid Programs, has determined that for each year of the first five years the section is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules. There will be no impact on small businesses or rural communities, as described in Texas Government Code, Chapter 2006, and therefore an Economic Impact analysis is not required.

Dr. Puls has also determined that for each year of the first five years the amendments are in effect, the public benefits anticipated as a result of administering the section will be the institutions' improved ability to meet the needs of their student populations. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section. There is no impact on local employment.

Dr. Puls has determined that for each year of the first five years the sections are in effect, the proposed rules:

- 1) Neither creates nor eliminates a government program;
- 2) Does not require the creation of new employee positions nor eliminates existing positions;

- 3) Neither increases nor decreases future legislative appropriations to the agency;
- 4) Neither increases nor decreases fees paid to the agency;
- 5) Does not create a new regulation as this regulation is merely being moved from one chapter to another chapter;
- 6) Does not expand, limit, or repeal an existing regulation;
- 7) Neither increases nor decreases the number of individuals subject to the rule's applicability; and
- 8) Neither positively nor adversely affect this state's economy.

Comments on the proposal may be submitted to Charles W. Puls, Ed.D., Deputy Assistant Commissioner, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via e-mail Charles.Puls@thehb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are adopted under Texas Education Code, §61.229, which authorizes the Coordinating Board to adopt rules to implement the Tuition Equalization Grants Program.

The amendments relate to Texas Administrative Code, Chapter 22, §22.29.

*§22.22. Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) - (11) (No change.)

(12) Encumbered Funds--Funds ready for disbursement to the institution, based on the institution having submitted to the Board the required documentation to request funds.

(13) [(12)] Enrollment on at least a half-time basis--For undergraduate students, enrolled for the equivalent of six or more semester credit hours per regular semester. For graduate students, enrolled for the equivalent of 4.5 or more semester credit hours per regular semester or enrolled for 50 percent of the normal full-time load of the student's program of study.

(14) [(13)] Enrollment on at least a three-fourths or three-quarters basis--For undergraduate students, enrolled for the equivalent of nine or more semester credit hours per regular semester. For graduate students, enrolled for the equivalent of six or more semester credit hours per regular semester or enrolled for 75 percent of the normal full-time load of the student's program of study.

(15) [(14)] Exceptional TEG need--An additional amount of TEG funds for which an undergraduate student may qualify on the basis of having an expected family contribution generated through the use of the federal methodology, less than or equal to the amount specified by the Board in accordance with Texas Education Code, §61.227(e).

(16) [(15)] Expected family contribution--The amount of discretionary income that should be available to a student from his or her resources and that of his or her family, as determined following the federal methodology.

(17) [~~(16)~~] Full-time enrollment--For undergraduate students, enrollment for the equivalent of twelve or more semester credit hours per regular semester or term. For graduate students, enrollment for the equivalent of nine or more semester credit hours per regular semester or term or the normal full-time load of the student's program of study.

(18) [~~(17)~~] Financial need--The cost of attendance at a particular public or private institution of higher education less the expected family contribution. The cost of attendance and family contribution are to be determined in accordance with Board guidelines.

(19) [~~(18)~~] First TEG or first award--The first Tuition Equalization Grant ever awarded to and received by a specific student.

(20) Forecast - The FORECAST function in Microsoft Excel.

(21) [~~(19)~~] Graduate student--A student who has been awarded a baccalaureate degree and is enrolled in coursework leading to a graduate or professional degree.

(22) [~~(20)~~] Gross need--An amount equal to a student's cost of attendance less expected family contribution generated through the use of the federal methodology.

(23) [~~(21)~~] Original TEG Program--The TEG program as authorized by statute prior to amendments adopted by the 79th Texas State Legislature in 2005 and which applies to students who were awarded their first TEG prior to September 1, 2005, including students awarded their first TEG prior to September 1, 2005 for the 2005-2006 academic year.

(24) [~~(22)~~] Period of enrollment--The semesters or terms within an academic year for which the student was enrolled in an approved institution and met all the eligibility requirements for an award through this program.

(25) [~~(23)~~] Private or independent institution--Any college or university defined as a private or independent institution of higher education by Texas Education Code, §61.003.

(26) [~~(24)~~] Program or TEG--The Tuition Equalization Grant Program.

(27) [~~(25)~~] Program maximum--The TEG Program award maximum determined by the Board in accordance with Texas Education Code, §61.227 (relating to Payment of Grant; Amount).

(28) [~~(26)~~] Program Officer--The individual named by each participating institution's chief executive officer to serve as agent for the Board. The Program Officer has primary responsibility for all ministerial acts required by the program, including the selection of recipients, maintenance of all records and preparation and submission of reports reflecting program transactions. Unless otherwise indicated by the administration, the director of student financial aid shall serve as Program Officer.

(29) [~~(27)~~] Regular semester--A fall or spring semester, typically of 16 weeks duration.

(30) [~~(28)~~] Religious ministry--Roles serving as clergy, religious leaders or similar positions within any sect or religious society, as demonstrated through ordination, licensure to preach, or other mechanisms particular to a given sect or society that are used to identify clergy, religious leaders or such similar positions.

(31) [~~(29)~~] Residency Core Questions--A set of questions developed by the Coordinating Board to be used to determine a student's eligibility for classification as a resident of Texas, available for downloading through the Coordinating Board's website and incorporated into the ApplyTexas application for admission.

(32) ~~[(30)]~~ Resident of Texas--A resident of the State of Texas as determined in accordance with Chapter 21, Subchapter B of this title (relating to Determination of Resident Status). Nonresident students who are eligible to pay resident tuition rates are not residents of Texas.

(33) ~~[(31)]~~ Subsequent award--A TEG grant received in any academic year other than the year in which an individual received his or her first TEG award.

(34) ~~[(32)]~~ TEG need--The basic amount of TEG funds that an eligible student could receive, subject to the limit in Texas Education Code §61.227(c).

(35) ~~[(33)]~~ Total TEG need--The total amount of TEG funds that eligible students at an approved institution could receive if the program were fully funded.

(36) ~~[(34)]~~ Tuition differential--The difference between the tuition paid at the private or independent institution attended and the tuition the student would have paid to attend a comparable public institution.

(37) ~~[(35)]~~ Undergraduate student--An individual who has not yet received a baccalaureate degree.

*§22.29. Allocation and Disbursement ~~[Reallocation]~~ of Funds.*

(a) Allocations for Fiscal Year 2019 and prior. Allocations for the TEG Program are to be determined on an annual basis as follows:

(1) - (8) (No change.)

(b) Allocations for Fiscal Year 2020 and later. Allocations for the TEG Program are to be determined on an annual basis as follows:

(1) All eligible institutions will be invited to participate; those choosing not to participate will be left out of the calculations for the relevant year.

(2) The allocation base for each institution choosing to participate will be its three-year average share of the total statewide amount of the total amount of TEG funds that eligible students at an approved institution could receive if the program were fully funded ~~[Total TEG Need]~~, subject to the limits in Texas Education Code, §61.227(c) and (e), based on the students who met the following criteria:

(A) Enrollment on at least a three-fourths or three-quarters basis;

(B) An Expected Family Contribution, calculated using federal methodology, that results in ~~[Completed either the FAFSA or TASEA and]~~ demonstrated Adjusted Gross Need greater than zero;

(C) Maintain satisfactory academic progress in his or her program of study as required by §22.24(b) of this subchapter;

(D) Classified as a Resident of Texas;

(E) Be enrolled in an approved institution in an individual degree plan leading to a first associates degree, first baccalaureate degree, first master's degree, first professional degree, or first doctoral degree;

(F) Not be enrolled in a degree plan that is intended to lead ~~[leads]~~ to religious ministry ~~[ordination, licensure to preach, or a career in church work]~~;

(G) Be required to pay more tuition than is required at a comparable public college or university and be charged no less than the tuition required of all similarly situated students at the institution; and

(H) Not be a recipient of any form of athletic scholarship.

(3) - (8) (No change.)

(9) Allocations for both years of the state appropriations' biennium will be completed at the same time. For the allocations process of the second year of the state appropriations' biennium, the sources of data outlined in subsection (3) of this section will be utilized to forecast an additional year of data. This additional year of data, in combination with the two most recent years outlined in subsection (3), will be utilized to calculate the three-year average share outlined in subsection (2) of this section. Institutions will receive notification of their allocations for both years of the biennium at the same time.

(c) Disbursement of Funds to Institutions. As requested by institutions throughout the academic year, the Board shall forward to each participating institution a portion of its allocation of funds for timely disbursement to students. Institutions will have until the close of business on August 1 or the first working day thereafter if it falls on a weekend or holiday, to encumber program funds from their allocation. After that date, institutions lose claim to any funds in the current fiscal year not yet drawn down from the Board for timely disbursement to students. Funds released in this manner in the first year of the biennium become available to the institution for use in the second year of the biennium. Funds released in this manner in the second year of the biennium become available to the Board's program for utilization in grant processing. Should these unspent funds result in additional funding available for the next biennium's program, revised allocations, calculated according to the allocation methodology specified in this rule, will be issued to participating institutions during the fall semester.

~~[(e) Reallocations. Institutions will have until February 20 or the first workday thereafter if it falls on a holiday or the weekend to encumber the program funds that have been allocated to them. On that date, institutions lose claim to any funds not yet drawn down from the Board for immediate disbursement to students. The funds released in this manner are available to the Board for reallocation to other institutions. If necessary for ensuring the full use of funds, subsequent reallocations may be scheduled until all funds are awarded and disbursed.]~~

(d) Reductions in Funding.

(1) If annual funding for the program is reduced after the start of fiscal a year, the Board may take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations [during the first year of a biennium, the Board may choose to forego reallocations to better distribute the reduction across the biennium].

(2) If annual funding is reduced prior to the start of a fiscal year [beginning of the second year of a biennium], the Board may recalculate the allocations according to the allocation methodology outlined in this rule for the affected fiscal year based on available dollars [take steps to help distribute the impact of reduced funding across all participating institutions by an across-the-board percentage decrease in all institutions' allocations].

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6104